

THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION

UNITED STATES OF AMERICA,	:	
	:	
	:	
Plaintiff,	:	CIVIL ACTION
	:	
v.	:	NO.: 1:14-cv-03396-CC
	:	
\$77,083.00 IN UNITED STATES	:	<b>ANSWER</b>
CURRENCY,	:	<b>TO CIVIL COMPLAINT FOR</b>
	:	<b>FORFEITURE</b>
	:	
Defendant, and	:	
	:	
	:	
MICHAEL A. DAVIS,	:	
	:	
	:	
Claimant.	:	

**ANSWER TO COMPLAINT FOR FORFEITURE**

COMES NOW, Claimant, MICHAEL A. DAVIS, (hereinafter referred to as "Claimant"), by and through his undersigned counsel, hereby files his Answer and Affirmative Defenses to the Plaintiff's Civil Complaint for Forfeiture, showing as follows:

**AFFIRMATIVE DEFENSES**

**FIRST AFFIRMATIVE DEFENSE**

Plaintiff's claims that the defendant property is subject to this civil forfeiture pursuant to 21 U.S.C. §§ 881(a)(6) is a claim upon which relief cannot be granted in this case because Claimant was at all times engaged in lawful conduct, and the

defendant property was never furnished or intended to be furnished in exchange for a controlled substance, traceable to such an exchange, or used or intended to be used to facilitate the sale or exchange of a controlled substance.

**SECOND AFFIRMATIVE DEFENSE**

Claimant acted in good faith and without knowledge of any unlawful activity at all times relevant to the Complaint.

**THIRD AFFIRMATIVE DEFENSE**

Claimant, is an innocent owner, did not know, or have reason to know, that the property in question was being employed or was likely to be employed in any criminal activity, whatsoever.

**FOURTH AFFIRMATIVE DEFENSE**

Plaintiff's seizure of the defendant property violates the Claimants' Fourth Amendment right to be free from illegal searches and seizures.

**FIFTH AFFIRMATIVE DEFENSE**

Plaintiff cannot obtain the forfeiture it seeks because that result would be constitutionally disproportionate.

**SIXTH AFFIRMATIVE DEFENSE**

Plaintiff is estopped from obtaining a forfeiture judgment because it obtained the seizure warrants through incorrect, misleading and/or incorrect allegations.

**SEVENTH AFFIRMATIVE DEFENSE**

Plaintiff is estopped from pursuing this civil forfeiture action because it has failed to conduct an adequate investigation and filed this Complaint without sufficient prior analysis of the facts and understanding of Claimant's role.

**EIGHTH AFFIRMATIVE DEFENSE**

Claimant incorporates by reference, as though set forth at length, each and every legal defense asserted in any pleading in this action that is applicable to and supportive of Claimant's defense of this action and is not otherwise set forth herein.

**NOTICE OF RESERVATION OF RIGHTS**

Claimant hereby gives notice that he intends to rely on any other defense that may become available or appear during the discovery proceedings in this case and hereby specifically reserves his right to amend this Answer to assert any such discovered defense.

Without waiving any of the above defenses and incorporating said defenses herein by reference, Claimant responds to the numbered allegations of Plaintiff's Complaint as follows:

1. Claimant responds that the allegations contained in paragraph 1 of the Complaint are legal conclusions to which no response is required. To the extent the Court requires a

response, Claimant denies that this Court has jurisdiction over this action in order to preserve all appropriate defenses.

2. Claimant responds that the allegations contained in paragraph 2 of the Complaint are legal conclusions to which no response is required. To the extent the Court requires a response, Claimant denies that acts or omissions giving rise to forfeiture have occurred in this district and, therefore, deny that venue is proper in this district.

3. Claimant is without sufficient knowledge to form a belief as to the truth of the allegations contained in paragraph 3 of the Complaint and therefore denies all allegations contained therein.

4. Claimant is without sufficient knowledge to form a belief as to the truth of the allegations contained in paragraph 4 of the Complaint and therefore denies all allegations contained therein

#### **FORFEITURE STATUTE**

Claimant re-alleges and incorporates herein his defenses and responses to paragraphs 1 through 4 of Plaintiff's Complaint as if fully set forth below.

5. Claimant responds that the allegations contained in paragraph 5 of the Complaint are legal conclusions to which no response is required. To the extent the Court requires a

response, Claimant denies these allegations in order to preserve all appropriate defenses.

**BASIS FOR FORFEITURE**

Claimant re-alleges and incorporates herein his defenses and responses to paragraphs 1 through 5 of Plaintiff's Complaint as if fully set forth below.

6. Claimant is without sufficient knowledge to form a belief as to the truth of the allegations contained in paragraph 6 of the Complaint and therefore denies all allegations contained therein.

7. Claimant is without sufficient knowledge to form a belief as to the truth of the allegations contained in paragraph 7 of the Complaint and therefore denies all allegations contained therein.

8. Claimant is without sufficient knowledge to form a belief as to the truth of the allegations contained in paragraph 8 of the Complaint and therefore denies all allegations contained therein.

9. Claimant is without sufficient knowledge to form a belief as to the truth of the allegations contained in paragraph 9 of the Complaint and therefore denies all allegations contained therein.

10. Claimant is without sufficient knowledge to form a belief as to the truth of the allegations contained in paragraph 10 of the Complaint and therefore denies all allegations contained therein.

11. Claimant is without sufficient knowledge to form a belief as to the truth of the allegations contained in paragraph 11 of the Complaint and therefore denies all allegations contained therein.

12. Claimant is without sufficient knowledge to form a belief as to the truth of the allegations contained in paragraph 12 of the Complaint and therefore denies all allegations contained therein.

13. Claimant is without sufficient knowledge to form a belief as to the truth of the allegations contained in paragraph 13 of the Complaint and therefore denies all allegations contained therein.

14. Claimant is without sufficient knowledge to form a belief as to the truth of the allegations contained in paragraph 14 of the Complaint and therefore denies all allegations contained therein.

15. Claimant is without sufficient knowledge to form a belief as to the truth of the allegations contained in paragraph 15 of

the Complaint and therefore denies all allegations contained therein.

16. Claimant is without sufficient knowledge to form a belief as to the truth of the allegations contained in paragraph 16 of the Complaint and therefore denies all allegations contained therein.

17. Claimant is without sufficient knowledge to form a belief as to the truth of the allegations contained in paragraph 17 of the Complaint and therefore denies all allegations contained therein.

18. Claimant is without sufficient knowledge to form a belief as to the truth of the allegations contained in paragraph 18 of the Complaint and therefore denies all allegations contained therein.

19. Claimant is without sufficient knowledge to form a belief as to the truth of the allegations contained in paragraph 19 of the Complaint and therefore denies all allegations contained therein.

20. Claimant is without sufficient knowledge to form a belief as to the truth of the allegations contained in paragraph 20 of the Complaint and therefore denies all allegations contained therein.

21. Claimant is without sufficient knowledge to form a belief as to the truth of the allegations contained in paragraph 21 of the Complaint and therefore denies all allegations contained therein.

22. Claimant is without sufficient knowledge to form a belief as to the truth of the allegations contained in paragraph 22 of the Complaint and therefore denies all allegations contained therein.

23. Claimant is without sufficient knowledge to form a belief as to the truth of the allegations contained in paragraph 23 of the Complaint and therefore denies all allegations contained therein.

24. Claimant is without sufficient knowledge to form a belief as to the truth of the allegations contained in paragraph 24 of the Complaint and therefore denies all allegations contained therein.

25. Claimant is without sufficient knowledge to form a belief as to the truth of the allegations contained in paragraph 25 of the Complaint and therefore denies all allegations contained therein.

26. Claimant is without sufficient knowledge to form a belief as to the truth of the allegations contained in paragraph 26 of



the Complaint and therefore denies all allegations contained therein.

27. Claimant is without sufficient knowledge to form a belief as to the truth of the allegations contained in paragraph 27 of the Complaint and therefore denies all allegations contained therein.

28. Claimant is without sufficient knowledge to form a belief as to the truth of the allegations contained in paragraph 28 of the Complaint and therefore denies all allegations contained therein.

29. Claimant is without sufficient knowledge to form a belief as to the truth of the allegations contained in paragraph 29 of the Complaint and therefore denies all allegations contained therein.

30. Claimant is without sufficient knowledge to form a belief as to the truth of the allegations contained in paragraph 30 of the Complaint and therefore denies all allegations contained therein.

31. Claimant is without sufficient knowledge to form a belief as to the truth of the allegations contained in paragraph 31 of the Complaint and therefore denies all allegations contained therein.

32. Claimant is without sufficient knowledge to form a belief as to the truth of the allegations contained in paragraph 32 of the Complaint and therefore denies all allegations contained therein.

33. Claimant is without sufficient knowledge to form a belief as to the truth of the allegations contained in paragraph 33 of the Complaint and therefore denies all allegations contained therein.

34. Claimant is without sufficient knowledge to form a belief as to the truth of the allegations contained in paragraph 34 of the Complaint and therefore denies all allegations contained therein.

35. Claimant is without sufficient knowledge to form a belief as to the truth of the allegations contained in paragraph 35 of the Complaint and therefore denies all allegations contained therein.

36. Claimant is without sufficient knowledge to form a belief as to the truth of the allegations contained in paragraph 36 of the Complaint and therefore denies all allegations contained therein.

37. Claimant is without sufficient knowledge to form a belief as to the truth of the allegations contained in paragraph 37 of

the Complaint and therefore denies all allegations contained therein.

38. Claimant is without sufficient knowledge to form a belief as to the truth of the allegations contained in paragraph 38 of the Complaint and therefore denies all allegations contained therein.

39. Claimant is without sufficient knowledge to form a belief as to the truth of the allegations contained in paragraph 39 of the Complaint and therefore denies all allegations contained therein.

40. Claimant is without sufficient knowledge to form a belief as to the truth of the allegations contained in paragraph 40 of the Complaint and therefore denies all allegations contained therein.

41. Claimant is without sufficient knowledge to form a belief as to the truth of the allegations contained in paragraph 41 of the Complaint and therefore denies all allegations contained therein.

42. Claimant is without sufficient knowledge to form a belief as to the truth of the allegations contained in paragraph 42 of the Complaint and therefore denies all allegations contained therein.

43. Claimant is without sufficient knowledge to form a belief as to the truth of the allegations contained in paragraph 43 of the Complaint and therefore denies all allegations contained therein.

#### **CONCLUSION**

Claimant re-alleges and incorporates herein his defenses and responses to paragraphs 1 through 43 of Plaintiff's Complaint as if fully set forth below.

44. Claimant denies the allegations contained in paragraph 44 of the Complaint.

The remainder of Plaintiff's Complaint, beginning with the word "WHEREFORE" constitutes a prayer for specific relief to which no answer is required. To the extent a response is appropriate, Claimant denies that the relief requested is proper or justified by the facts of this case.

All remaining allegations not specifically responded to above are hereby denied.

WHEREFORE, Claimant respectfully request:

- (a) That this Court dismiss the Complaint with prejudice and order all of Claimant's seized property named as a defendant above, in the custody of Plaintiff be ordered released and returned;

- (b) That Claimant be awarded his expenses, court costs and attorney's fees incurred in defending Plaintiff's Complaint; and
- (c) That this Court grant any additional and further relief that it deems just, proper and appropriate under the circumstances.

**CLAIMANT'S DEMAND FOR JURY TRIAL**

**CLAIMANT DEMANDS TRIAL BY JURY ON ALL ISSUES SO TRIABLE.**

This 16th day of December, 2014.

Respectfully Submitted,

**THE PARKS GROUP, LLC**  
3384 Peachtree Road, NE  
Suite 250  
Atlanta, Georgia 30326  
404-846-9099 Telephone  
404-846-9992 Facsimile  
attorneys@parksgrouplaw.com  
cportis@chrisportis.net

/s Christopher T. Portis  
PHAEDRA C. PARKS  
GEORGIA BAR No. 556388  
CHRISTOPHER T. PORTIS  
GEORGIA BAR No. 773990

**ATTORNEYS FOR CLAIMANT - MICHAEL  
A. DAVIS**

**CERTIFICATE OF SERVICE**

I hereby certify that on December 16th, 2014, I prepared the foregoing **ANSWER TO COMPLAINT FOR FORFEITURE**, in compliance with Local Rule 5.1, NDGa., using Courier New, 12 point type and have this day electronically filed the document with the Clerk of Court using the CM/ECF system which will automatically send e-mail notification of such filing to all attorneys of record.

/s/ Christopher T. Portis  
CHRISTOPHER T. PORTIS

**THE PARKS GROUP**

3384 Peachtree Road, NE  
Suite 250  
Atlanta, Georgia 30326  
404-846-9099 Telephone  
404-846-9992 Facsimile